

Add Sections 52.00, 52.01, 52.02, 52.03, 52.04, 52.05, and 52.09, and Amend Sections 150.16, and 150.17, Title 14, California Code of Regulations (CCR).
Re: Nearshore Fishery Management Plan
Implementing Regulations, and
Commercial Take of Nearshore Fishes,
Commercial Nearshore Fishing Gear.

- The Commission, at its August 29, 2002 meeting, expressed support for proceeding with adoption of the Nearshore Fishery Management Plan (Nearshore FMP or plan), and implementing regulations, including Department recommended options for four of the proposed implementing regulations

(sections 52.03, 52.04, 52.05, and 150.17, Title 14, CCR). Options adopted by the Commission for these regulations are the preferred project (a combination of management measures), allocation of total allowable catches based on historic catches applied regionally, establishment of four regional nearshore fisheries management areas, and adoption of commercial fishing gear provisions for consistency with the Fish and Game Code. The suite of options considered by the Commission are those reflected in the plan's implementing regulations as originally provided with the Amended Initial Statement of Reasons.

The Commission's approval of the Nearshore FMP and implementing regulations involved no changes to the regulatory language provided with the Amended Initial Statement of Reasons except for the deletion of regulatory options in Sections 52.03, 52.04, 52.05, and 150.17, Title 14, CCR that were not adopted by the Commission (discussed below). The only other change to the suite of originally proposed implementing regulations is elimination of proposed changes to Section 150.01 from consideration and adoption by the Commission.

With regard to Section 150.01, at the Department's request, the Commission's motion to adopt the implementing regulations excluded adoption of Section 150.01, Title 14, CCR. Changes to Section 150.01 originally proposed by the Department were intended to bring nearshore fishery regulatory language into agreement with statutory language of Fish and Game Code Section 8587 regarding persons on a vessel needing a nearshore fishery permit, the revocable nature of the permit, and the permit fee (see Amended Initial Statement of Reasons). However, these changes were also being proposed for consideration and adoption as a part of Section 150, Title 14, CCR in a separate rulemaking to establish a comprehensive restricted access program for nearshore fisheries. Restricted access is one of the tasks specified for implementing the fishery control rule adopted with the Nearshore FMP implementing regulations. Regulations to implement a nearshore fishery restricted access program were developed in consort with fisheries representatives during the past year, but were noticed in the California Regulatory Notice Register only recently. Therefore, due to an oversight, the Department did not realize until recently the presence of these proposed changes in two separate rulemakings and, once discovered, decided it best to adopt these regulations as a part of the restricted access rulemaking that deals more comprehensively with nearshore fishery permit issues. The Commission concurred with this recommendation and did not adopt changes to Section 150.01 when it adopted the Nearshore FMP implementing regulations on October 25, 2002.

In summary, with the exception of originally proposed Section 150.01, the Commission adopted the proposed regulations as recommended by the Department, including the Department's preferred nearshore fishery

management alternatives in the plan as described in the Pre-adoption Statement of Reasons (incorporated herein by reference).

Specifically, Commission action to adopt implementing regulations is as follows.

- Proposed Addition of Sections 52.00, 52.01, 52.02, and 52.09, and Amendment to Section 150.16: Commission action to approve the Department's recommendation regarding the Nearshore FMP resulted in no need to make any changes to these regulations as proposed in the Amended Initial Statement of Reasons.
- Preferred Project: The Commission adopted the preferred project alternative, identified in Section 1, Chapter 3 of the Nearshore FMP, that is reflected in the originally proposed regulations (in the Amended Initial Statement of Reasons) as Option 1 of proposed Section 52.03, Title 14, CCR. This option involves a combination of measures that include a fishery control rule, allocation of total allowable catch of nearshore fish stocks, regional management of nearshore fisheries, marine protected areas (MPAs), nearshore fishery restricted access, and provides a framework governing transfer of management authority for nearshore fish stocks and fisheries from the Pacific Fishery Management Council (Council) to the State. Options 2 and 3 that were contained in the originally proposed regulatory language accompanying the Amended Initial Statement of Reasons were deleted from the regulations based on the Commission's action in adopting the preferred project alternative.
- Regional Management: The Commission approved the preferred regional management alternative in Section 1, Chapter 3 of the Nearshore FMP, that is reflected in the implementing regulations as Option 3 under proposed Section 52.04, Title 14, CCR. The original preferred alternative for regional management was to establish three regional management areas along the California coast (a North Coast Region, a Central Coast Region, and a South Coast Region). However, based on public and Commission recommendations, the preferred regional management option was changed in the Amended Initial Statement of Reason to establish four regional management areas (North Coast Region, North-Central Coast Region, South-Central Coast Region, and South Coast Region). With approval of the plan and the preferred option to manage the nearshore fisheries utilizing four regional management areas, the other options involving either two or three regional management areas were deleted from the proposed regulations.
- Allocation: The Commission selected the preferred allocation option included in Section 1, Chapter 3 of the Nearshore FMP as reflected in the regulatory language of Option 1 of proposed Section 52.05, Title 14, CCR, of the Amended Initial Statement of Reasons. This option involves

the use of historic fishery information applied regionally to allocate total allowable catches (TACs) of nearshore fish stocks under Stage I (data poor) conditions. With selection of the plan and its option for allocation of TACs based on historic fisheries information, the other alternative allocation options based on either stock biomass or economic benefit to the State are deleted from the proposed regulations. Information needed to allocate TACs based on stock biomass or economic benefit to the State is not currently available.

- Fishing Gear: Commission approval of the preferred project alternative under proposed Section 52.03 results in the need to adopt Option 1 under Section 150.17. The three options considered under Section 150.17 are, respectively: Option 1, the amendment of current commercial hook-and-line regulatory language in Section 150.17 to make it consistent with the statutory language of sections 9027 and 9027.5 from which it was derived; Option 2, consideration of a proposal by United Anglers of Southern California (UASC) that would restrict commercial fishing gear to rod and reel or hand lines; and, Option 3, consideration of a proposal that would prohibit the take, possession, landing, sale, and purchase of nearshore fish from off California (the "Washington Option").

With approval of the Nearshore FMP and the Commission's decision to proceed with the preferred project (to not select the UASC or "Washington Option") Options 2 and 3 were deleted from the proposed regulations. Approval of the plan includes a recognition by the Commission that, at this time, management of nearshore fish stocks is in Stage I (data poor) of a three stage management process that will advance to Stages II and III as the amount and quality of fisheries information improves. Therefore, the measures approved by the Commission are those that support management under Stage I conditions.

At the Fish and Game Commission meeting of October 25, 2002 the Commission certified the Final Nearshore Fishery Management Plan (Nearshore FMP or NFMP) as a Final Environmental Document and adopted the Nearshore FMP implementing regulations.

VII. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting those considerations:

The Department's response to public comments are provided in Attachment 1, Response to Public Comments, which is provided as a separate three hole binder. Comments and responses are organized by meeting date and by oral, electronic, and written comments.

VIII. Compliance with Section 7059 of the Fish and Game Code.

As described in the Amended Initial Statement of Reasons, the Department and Commission conducted an ongoing consultation and dialogue with nearshore fishery participants from both the recreational and commercial nearshore fisheries, and interested environmental representatives during development and adoption of the Nearshore FMP implementing regulations. This consultation occurred through both a series of facilitated advisory group meetings and individual dialogue consistent with Fish and Game Code Section 7059, as referenced in Fish and Game Code Sections 7071 and 8587.1, authority under which these regulations are adopted.

IX. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:
California Fish and Game Commission
1416 Ninth Street
Sacramento, California 95814

X. Location of Department files:

Department of Fish and Game
1416 Ninth Street
Sacramento, California 95814

XI. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulatory Action: The MLMA enacted by the Legislature directs the development of a Nearshore FMP consistent with the MLMA on or before January 1, 2002 and also directs the adoption of regulations necessary to implement the plan within 60 days of Commission adoption of the FMP. This leaves little discretion regarding the adoption of regulations, and is tacit recognition that a fishery management plan cannot reasonably be implemented unless regulations are adopted that specify and clarify for fisheries managers and those being regulated, the management process and measures that will be employed. Fishery management plans are traditionally implemented through adoption of rules and regulations adopted at the state and federal level, with management adjusted annually through the addition or amendment of rules and regulations.

Reliance on current interim nearshore fisheries management regulations in place since December of 2000 is one of the options in the Nearshore

FMP, but is not considered a viable long term alternative to the adoption of FMP implementing regulations. While current nearshore fisheries regulations are useful as interim measures in slowing harvests, protecting subadult nearshore fish, and slowing the rate of growth in fishing effort on nearshore fish stocks, they are not expected to achieve long-term sustainable management called for by the MLMA. Therefore, additional measures are needed in order to achieve the comprehensive management called for by the MLMA.

- (b) No Change Alternative (adopt no Nearshore FMP implementing regulations, but continue use of current regulations). This alternative does nothing to further more comprehensive nearshore fisheries management and does not bring the plan into conformance with the MLMA through adoption of implementing regulations as directed by the Legislature. This, in turn, would jeopardize future management decisions made by the Commission based on the Nearshore FMP, impede transfer of management for nearshore fisheries to the state, and leave management decisions more vulnerable to legal challenges. This alternative would result in continued management of nearshore fish stocks and fisheries under current interim laws and regulations. While this alternative is not expected to result in immediate severe adverse impacts to nearshore fish stocks and fisheries, due to the generally conservative nature of current optimum yields adopted by the Pacific Fishery Management Council and Commission during 2002, it would forego the greater opportunity for sustainable management under a comprehensive fishery management plan.
- (c) Consideration of Alternatives: In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

XII. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following determinations relative to the required statutory categories have been made:

Generally, participants in the commercial sectors of the nearshore fishery are small business operators. The nearshore commercial fishery is conducted from small to moderately sized vessels (about 12-45 feet in length) that utilize primarily hook-and-line and trap fishing gear in nearshore waters. From one to

two fishermen typically operate from a single vessel. Also, owners and operators of commercial passenger fishing vessels (CPFVs), that carry anglers fishing for a fee, operate from most major ports off California and fish, to varying degrees, for nearshore fishes. Discussions of the “Socioeconomic Benefits of the Fishery” and “Socioeconomic Dimensions of the Fishery” are included in Section 1, Chapter 4 of the Nearshore FMP.

Several measures that may potentially affect the nearshore fisheries were included with regulations originally considered for adoption in the Amended Initial Statement of Reasons. Measures originally considered range from no change in current management to a total prohibition on commercial sale of nearshore fish. However, measures that would have resulted in the greatest adverse impacts, involving gear restrictions or total prohibitions on commercial fishing, were not adopted as management options within the implementing regulations. Therefore, the potential impacts of these actions are not expected to be realized and are not included (discussed) in the Final Statement of Reasons.

Department Recommended Nearshore Fishery Management Plan “Project”: As background, the Department’s Recommended Nearshore FMP Project involves a combination of management measures including a fishery control rule that integrates essential fisheries information (EFI) about the demographics of target species, the ecosystem effects of the fishery, and the effects of environmental change on the fishery. It then sets criteria for three different levels of availability of EFI: data-poor, data-moderate, or data-rich circumstances. Finally, it designs management strategies that include more or less precaution, depending on the level of EFI.

The current level of availability of EFI for almost all nearshore fishes is data poor which has already resulted, and will continue to result, in greater precautionary adjustments being utilized to address uncertainty about ecosystem effects on stocks and fisheries (interim regulations for cabezon, greenlings and California sheephead adopted in December of 2000 include these precautionary adjustments to optimum yields set for these species). Stage 1 management is slated to include a suite of management measures that can affect fishery participants. These include the use of catch history (such as that being utilized now for California sheephead, cabezon, and greenlings) for setting total allowable catches (TACs) for each species or species group of nearshore fishes, regional management of nearshore fish stocks (four regions under the Department’s preferred recommendation), allocation of the TACs of nearshore fishes between recreational and commercial fisheries, marine protected areas (MPAs) (where fishing is restricted), and restricted access (seeks to align the fishing capacity of the commercial fisheries with available fishery resources

though restrictions on participation in the fishery consistent with sustainable use policy of the MLMA).

As indicated above, development of MPAs and a restricted access program are works-in-progress. Therefore, in the absence of specifics regarding these measures, estimates of the economic impacts on businesses are speculative. These measures may have immediate and potentially protracted negative economic effects on nearshore fishery businesses due to their expected curtailment of fishing in MPAs and by elimination of some fishery participants that do not meet restricted access criteria. However, in the long-term, healthier (more sustainable) stocks of nearshore fishes and a nearshore fleet that is in better balance with available nearshore resources, should have positive economic effects on those continuously involved in the fishery.

This leaves the effects of setting TACs using catch history, regional management, allocation, and gear restrictions (the latter are alternatives to the “recommended” management approach) as the principal measures being considered that may have an economic impact on small businesses.

Determination of Total Allowable Catch (TAC): TAC for Stage 1 (data-poor) management will utilize catch history under the preferred option. Determination of the TACs that the Commission currently sets for individual species of nearshore fishes (cabezon, greenlings, and sheephead) are expected to be the same as last year. Therefore, adoption of annual catches as proposed should result in no immediate new economic effects on the fisheries for these species.

The TAC for the nearshore rockfish species complex is proposed to be reduced by the federal Pacific Fishery Management Council (Council) for 2003 which will likely result in some undetermined impact to fisheries participants in the near term. Based on a reported 18 percent reduction in the TAC for nearshore rockfish next year, the impact to the value of the commercial fishery is expected to be proportionate to that decline, at least for 2003. The Commission will not be setting the TAC for nearshore rockfish until there is a transfer of management authority from the Council to the Commission.

The proposed regulations would authorize the Commission to use measures such as restrictions in catch, time, area, or gear to keep harvests within total allowable catches. These actions have the potential for causing adverse economic effect in the fishery in the short term, but should result in long-term positive impacts due to increased sustainability of the nearshore fishery resources resulting in increased total fishery harvests over time.

Regional Management (proposed Section 52.04).

Three regional management options were originally proposed that include: two management regions that correspond to the current management areas created under the Pacific Fishery Management Council's Pacific Coast Groundfish Fishery Management Plan; three management areas south of the California-Oregon border, a north coast region, a central coast region, and a south coast region; and four management areas south of the California-Oregon border (**the Department's recommended preferred alternative**), a north coast region, a north-central coast region, a south-central coast region, and a south coast region. The Commission adopted the four regional management area option.

Economic impacts on the nearshore fisheries as a whole are not expected to result from adoption of a regional management option because no changes are proposed at this time to the total annual catches of nearshore fish stocks as a result of regional management versus current management. Allocations of the total annual harvests among regions might change the total take of nearshore fish stocks within a particular region, compared with recent historic catches. However, active markets will tend to distribute nearshore fisheries goods and services statewide, according to consumer demand.

Potential economic impacts from allocation of annual catches for a fishery in different regions might range from no impact, to moderate impacts, depending on the region, the species, or species group for which annual catches are being allocated, and the allocation methodology utilized to apportion total annual harvests between regions. The current nearshore fishery has expanded coastwide in recent years with the fishery generally expanding from south to north in the state. Also, different species of nearshore fish predominate in the catch in different areas of the coast. If catches made during recent years are used to apportion annual harvests within a fishery, as anticipated, the impacts are expected to be negligible. However, if an extended past series of years of either sport or commercial catch data is used to determine allocations within a fishery for different regions in the state, allocations of annual harvests might differ from the current proportions that exist for landings made along the coast. This might result in a fishery in a region being allocated a larger or smaller catch than has traditionally been taken during the year. Economic impacts are expected to be dealt with and losses minimized prior to allocation of nearshore annual catches by region through more detailed examination of catch records for species, pounds and value of fish caught and landed in each region, and through interactions with fishery participants. Long-term economic benefits are expected as a result of abating the collapse of the nearshore fishery, due to overharvesting under current regulations, and benefits will result from rational allocation approaches that maximize the value of the resource used.

Allocation (proposed Section 52.05):

Options for determining allocation are proposed. Presently Commission allocations between sport and commercial fisheries have been made only for California sheephead, cabezon, and greenlings using historic catch data, while the Council has allocated nearshore rockfish. If allocation ratios for these species change due to a change in the method of determining allocation, either a positive or negative economic impact could result to one of these fisheries depending on whether the fishery is allocated more or less of the annual harvest. No changes were made in 2002 to the authorized annual harvests set during December of 2000 for these species, so potential economic impacts of changes in allocation would result from a shifting of authorized take from one fishery to the other. Also, if the Commission chose to reallocate unused annual catch from a fishery that is not expected to fully utilize its allocation, this could have an immediate positive economic impact on the fishery receiving the additional allocation by providing for its continued operation, and would result in full utilization of the entire authorized annual catch. At this time, the Commission has indicated a preference for not reallocating unused fishery allocations from one fishery to another in consort with the precautionary approach to management.

The current allocation process for sheephead, cabezon, and greenlings utilizes a ratio of historic catches for 1983 through 1989 and 1993 through 1999. The Department's preferred Option 1 would utilize this same approach but apply it regionally to four regions along the coast, and include a careful review of commercial and recreational landings. This option may result in some changes in allocation of cabezon and greenling (allocation would not be expected to change for sheephead which are taken primarily in one of these regions) if the ratio of catches for the two central regions and northern region differs from the current statewide allocation, which presently allocates the majority of annual harvest to the recreational fishery. Regional data have not yet been developed to further evaluate the effects of allocation on a regional basis.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

Some of the alternatives associated with the originally proposed regulatory options considered for adoption could have resulted in the elimination of jobs within the state. The most apparent of these were options that would result in significant restriction of commercial fishing for nearshore fish stocks to rod-and-reel fishing gear, and a prohibition on the take, possession, landing, sale, or purchase of nearshore fish stocks from waters off California (Options 2 and 3

under Section 150.17). These option were not adopted and the impacts are therefore no longer a potential issue.

The restricted access element of the preferred project under Section 52.03 may result in a reduction in the number of commercial fishermen that may participate in the fishery. However, the effects of a restricted access program will not be realized until that program is established through a separate rulemaking which is presently being undertaken.

- (c) Cost Impacts on a Representative Private Person or Business:
The cost impacts to a representative private persons or business are generally included in the discussion of impacts under (a).
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

The costs to the State are discussed at the end of Section VI above under Update.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None
- (f) Programs mandated on Local Agencies or School Districts: None
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None
- (h) Effect on Housing Costs: None

Updated Informative Digest (Policy Statement Overview)

Existing laws and regulations governing fisheries for nearshore fish stocks in ocean waters off California include a combination of state and federal laws, rules, and regulations adopted by the Fish and Game Commission (Commission), the Pacific Fishery Management Council (Council), the California Legislature, and United States Congress. A total of 19 species of fish are presently identified in existing regulation as nearshore fish stocks [Section 1.90, Title 14, California Code of Regulations (CCR)]. These include 16 species of federally managed groundfish [thirteen species of nearshore rockfish (blue, black, black-and-yellow, brown, calico, China, copper, gopher, grass, kelp, quillback, and olive rockfishes, and treefish), cabezon, kelp greenling, and California scorpionfish], and three state managed species (California sheephead, rock greenling, and monkeyface prickleback).

Under existing law, the Marine Life Management Act of 1998 (MLMA) directs the Commission to adopt a Nearshore Fishery Management Plan (Nearshore FMP or Plan), and to adopt implementing regulations not later than 60 days after adoption of the Nearshore FMP. The Nearshore FMP that these proposed regulations will implement, is prepared as a “project” under the California Environmental Quality Act (CEQA). Regulations are proposed to implement the Nearshore FMP for management of nearshore fisheries to meet the goals and objectives of the Plan and policies of the MLMA. Also, amendments to current nearshore fishery regulations are proposed, as described below.

Existing laws and regulations involving nearshore fisheries and the Nearshore FMP include the following Fish and Game Code Statutes that:

1. provide authority for the Commission to adopt regulations that implement a fishery management plan or plan amendment and make inoperative any fishery management statute that applies to that fishery [Fish and Game Code subsections 7071(b) and 8587.1(b)],
2. provide authority for the Commission to adopt regulations as it determines necessary, based on the advice and recommendations of the Department, consistent with the process specified in the MLMA [Fish and Game Code subsections 7071(c) and 8587.1(a)],
3. direct the Commission to adopt a fishery management plan for the nearshore fishery on or before January 1, 2002 [Fish and Game Code subsection 7072(d)],
4. provide legislative findings and declarations for nearshore fisheries management (Fish and Game Code Section 8585.5),
5. add definitions of nearshore fish stocks, nearshore fisheries, and nearshore waters (Fish and Game Code Section 8586),

6. create a nearshore fishery permit and fee for commercial nearshore fishery (Fish and Game Code Section 8587),
7. authorize the Commission to regulate commercial nearshore fisheries (Fish and Game Code sections 7071 and 8587.1),
8. authorize the Commission revocation of a nearshore permit for a violation of nearshore statutes (Fish and Game Code Section 8589.5),
9. specify the deposition of funds from the nearshore permit and the source of funding to support preparation of the Nearshore FMP (Fish and Game Code Section 8589); and

Title 14 regulations that:

1. define *Nearshore fish stocks, nearshore fisheries, and nearshore waters* (Adoption of this regulation in December 2000 included making Fish and Game Code Section 8586 inoperative) (Section 1.90, Title 14, CCR),
2. authorize a general sport fishing daily bag and possession limit of 10 rockfish in combination of species that applies to nearshore rockfishes (Section 27.60),
3. describe authorized sport fishing seasons, minimum sizes, daily bag limits, and fishing area restrictions for nearshore rockfish, cabezon, kelp and rock greenlings, California sheephead, and California scorpionfish (Sections 27.60, 27.65, 28.26, 28.28, 28.29, 28.54, and 28.55, Title 14, CCR),
4. describe fishery management areas and cowcod closure areas where restrictions or special authorizations for sport take of nearshore fishes apply (Section 27.82, Title 14, CCR),
5. authorize the transport of sport-caught fish through a closed area (Section 27.67, Title 14, CCR),
6. set a limit of two hooks and one line when rockfish or lingcod are aboard (Section 28.65, Title 14, CCR),
7. place a moratorium on the issuance of new nearshore fishery permits and establish a control date for purposes of establishing a restricted access nearshore fishery (Section 150, Title 14, CCR),
8. specify that a nearshore fishing permit is only required for the commercial take of the 10 species of nearshore fishes originally described in Fish and Game Code Section 8588 (Section 150.01, Title 14, CCR),
9. establish a control date of October 20, 2000 for the purpose of developing and implementing a gear endorsement program (Section 150.03, Title 14, CCR),
10. list the closed commercial seasons and areas for cabezon, kelp greenling, rock greenling, lingcod, California sheephead, and specify the commercial minimum size limits for 10 nearshore fish stocks and direct that species with trip limits, size limits, or optimum yield specified shall be sorted prior

- to weighing and weight reported separately on the fish receipt (Section 150.16, Title 14, CCR), and
11. limit the number of hooks that may be used on a vessel to take nearshore fish stocks for commercial purposes within one mile of the mainland shore (Section 150.17, Title 14, CCR).

Regulation changes being considered by the Commission will add new nearshore fishery management provisions to Article 3 of Chapter 5.5 of Subdivision 1, Division 1, of Title 14, CCR, to implement a Nearshore Fishery Management Plan; describe the Plan's purpose and scope, process and timing of monitoring, assessment, and management of nearshore fisheries under the plan; and provide definitions of terms used in the Plan and implementing regulations. Also, regulations proposed to be added to Chapter 5.5 describe the "project" (one or more management measures) for management of nearshore fish stocks and fisheries. Regulations proposed for consideration and adoption by the Commission also describe regional management, describe the basis and criteria for allocation decisions, include how allocation will be conducted, describe the process of setting Total Allowable Catches (TACs) for nearshore rockfish, and add mechanisms for closing the fishery for nearshore rockfish and notifying the public, including fishery participants. Regulations also are proposed to specify that any nearshore fish must be measured immediately and returned to the water immediately if shorter than the minimum size limit, specify that adoption of size limits, or changes to such limits be based on the best available scientific information and adopted following public notice and at least one public hearing, and that would require the sorting by species prior to weighing of any nearshore fish as defined in Section 1.90, Title 14, CCR. Finally, the regulations would amend commercial nearshore fishery gear regulations to specify in one regulation, areas where the current limit of 150 hooks and 15 hooks per line is in effect along the California coast, and include an existing exception south of Point Conception, Santa Barbara County, for the use of more than 150 hooks when targeting California halibut, white seabass, sharks, skates, and rays.

More specifically, proposed regulation changes would:

1. add provisions to Article 3 of Chapter 5.5, Title 14, CCR, that describe the purpose and scope of the Nearshore FMP, and describe the location in Title 14, CCR, of regulations that deal either with recreational or commercial fishing for nearshore species (proposed Section 52.00, Title 14, CCR),

2. provide definitions for *Allocation, Cape Mendocino, Council/PFMC, Fishery Control Rule, National Marine Fisheries Service or NMFS, Nearshore Fishery Management Plan, Nearshore Rockfish, Overfished, Overfishing, Quota, Total Allowable Catch or TAC, and Unfished Biomass or Bunfished* (proposed new Section 52.01, Title 14, CCR),
3. direct that management of nearshore rockfish conform to goals, objectives, criteria, procedures and fishery control rule guidelines; describe the process and timing of nearshore fishery management, monitoring, assessment, and adoption of management measures, including the ability to apply fishery management measures to regional management areas or portions of regional management areas; and authorize the Director to appoint advisory panels to provide for public input and assistance in the review of fishery assessments, management proposals, and proposed plan amendments (proposed new Section 52.02, Title 14, CCR),
4. describe the proposed project that includes one or more measures involving fishery control rules, allocation, regional management, marine protected areas, nearshore finfish conservation areas, and restricted access (proposed new Section 52.03, Title 14, CCR),
5. describe a regional management approach involving four management regions with a central region divided into a north-central and south-central region (proposed new Section 52.04, Title 14, CCR), with the boundary between the central and southern regional management areas at Point Conception, Santa Barbara County.
6. provide the basis for allocation of nearshore fish stocks, factors that will be considered during changes in allocation, and propose allocation including the need to comply with Federal allocation until transfer of management authority is complete, and allocation based on stock (proposed new Section 52.05, Title 14, CCR),
7. describe how the total allowable catch (TAC) of nearshore rockfish is determined, authorize department closure of the fishery when the TAC is reached, or expected to be reached, and describe how public notice of closures will be conducted (proposed new Section 52.09, Title 14, CCR),
8. require that all nearshore fish defined under Section 1.90 be sorted by species prior to weighing and the weight be recorded separately on the landing receipt, and adopt as regulation current Fish and Game Code requirements that nearshore fish with size limits be measured when first brought aboard and released immediately if undersize, and that adoption of regulations setting or modifying minimum or maximum size limits be based on the best available scientific information (proposed changes to Section 150.16, Title 14, CCR), and
9. clarify in one regulation the current areas identified in Fish and Game Code sections 9027 and 9027.5 where the restriction on number of hooks

and lines that may be used commercially to take nearshore fishes applies off California, including an existing exception to the 150 hook restriction when targeting California halibut, white seabass, sharks, skates, and rays south of Point Conception, Santa Barbara County (proposed changes to Section 150.17, Title 14, CCR).

The Commission, at its October 25, 2002 meeting, adopted the proposed Nearshore FMP implementing regulations. As a part of the motion to adopt, the Commission, at the Department's request, did not adopt originally proposed changes to Section 150.01, Title 14, CCR. Changes to Section 150.01 are being considered as a part of another separate rulemaking to establish a nearshore fishery restricted access program. Also, the Commission adopted the Department's preferred options for proposed sections 52.03 (Nearshore FMP Project), 52.04 (Regional Management), 52.05 (Allocation), and 150.07 (Nearshore Commercial Fishing Gear/Commercial Closure). Therefore, other options not adopted were eliminated from the regulatory language.